

PORT OF HONOLULU, H. I.

Table with 10 columns: Day, Tide, Sun, Moon, etc. showing tide and moon data for the week of June 18-24, 1890.

The whistle of the Honolulu Steam Planting Mill is blown daily by electric signal from the survey office at Honolulu...

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SHIPPING INTELLIGENCE.

ARRIVALS.

Monday, June 16. Am bktn S N Castle, Underwood, 11 1/2 days from San Francisco. ... Tuesday, June 17. Am bk S C Allen, Thompson, 15 1/2 days from San Francisco...

DEPARTURES.

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Myhee, W Hunter, J Gemmel, A Robinson and wife, Miss E Gay, C Kluge, Miss Grau, A Humburg, C H Bishop, E Kopke, Hon P P Kanoa, J H Kawai, Mrs Awaia, Chong Leon and 41 deck.

From Maui, per strmr Likiepke, June 22—Miss J R Hapuna, Miss Johnson, Miss May Horn, Miss Hapuna, Mrs Cook, S Ahmi, wife and 3 children, Achew, Mrs M Agusta, Mrs M Jose and child, E Kruger, Mr Burtis, H Laws, J G Carney and 44 deck.

From windward ports per strmr Kinan, June 21—From Volcano: C T Wilder, W F Pogue, H F Hebbard and wife, J C B Hebbard and wife, Misses Helen Saffrey, F C Sutherland, L E Bentley, E Schnabel, M M Murphy, E and D Medau, Mrs Kreng, E H Schnabel and Mrs A Honle. From way ports: Mrs C Schnabel, Miss I Albert, Mrs Aoe Like, C E Richardson, W Berlowitz, A F Cooke, C Kaiser, R Cotton, Alfred Fowler, Mrs J Nawahi and three children, Rev A N Fisher, wife and son, Mrs M Perry and child, James Benton, J Lyons, E Kimio, H H Webb, D Dayton and son, J Oenderkirk, C Buchanan, J Dyer, L M Johnson, S Nowlin, H A Heen, Dr A Mack and 76 deck.

From Molokai and Lanai, per strmr Molokai June 21—Hon Fred H Hayselden, William Alexander, H R Robinson, and 7 deck.

From Hamakua, per strmr Iwalei, June 21—Mrs M O'Brien and 3 children, and 28 deck.

For San Francisco, per bark W B Godfrey, June 21—C Haverson.

For Kauai, per strmr Jas Makee, June 16—Ten deck passengers.

For Kauai, per strmr Mikahala, June 17—Hon W H Rice and wife, A Drier, S K Kawai, H E Cooper, Miss S K Kaeo, Col Z S Spalding, J N S Williams, Mr Kluge, P Isenberg, sr, Hon G N Wilcox, Hon A S Wilcox and 50 deck.

For San Francisco, per bktn S G Wilder, June 18—Mrs H McMillan, Mr and Mrs Barto.

For Maui and Hawaii, per strmr W G Hall, June 20—For Volcano: Count Axel Wachtmeister, Count Andor Szechenyi, Lieut Patch, Lieut Field, Miss Dunning, B F Dunning and wife, and Miss Clark. For way ports: H G Treadway, Hon R D Walbridge, Mr Burtis, S Maikai, wife and family, Hon A and W Y Horner, D Speckmann, Col Sam Norris, Sam Nowlin and about 56 deck.

SHIPPING NOTES.

The American schooner Marion, Captain Hodson, sailed for Port Townsend, in ballast, on Saturday.

The American term J. G. North, Captain Rich'd Dabel, sailed for San Francisco Saturday the 21st inst., with 16,718 bags sugar, 1060 gals. sperm oil and 1333 dry bales. Total domestic value, \$81,557.50.

The bark Ceylon, Calhoun, left San Francisco for Honolulu, June 3, with the following cargo, valued at \$6,526, including 890 bbls barley, 1,105 bbls bran, 214 cils oats, 890 bbls hay, 6,240 pkgs, 205 M shingles, 150 doors, 75 M bricks and 50 bbls lime.

The American barkentine S. G. Wilder, Capt. T. H. Griffiths sailed, June 18, for San Francisco with 17,344 bags sugar, 5,068 bags coffee, C. Brewer & Co., 6,386 bags; Castle & Cooke, 2,450 bags; Theo. H. Davies & Co., 3,440 bags. Total: 17,344 bags sugar; 1,023 tons; domestic value, \$88,338.46.

Arrivals—June 7, S. S. Alameda, 6 days 14 hours, schr. Olga, 30 days from Honolulu; June 8, bark C. D. Bryant, 32 days, bark Forest Queen, 25 days, bark Lady Lamson, 25 days from Honolulu; bktn: June 8, schr. Eya, 20 days from Honolulu; June 10, brig J. D. Spreckels, 26 1/2 days from Kahului; June 13, S. S. Australia, 7 days from Honolulu.

Departures—June 8, bark G. N. Wilcox for Honolulu. Projected departures—June 20, S. S. Australia for Honolulu etc; bark C. D. Bryant, bark Forest Queen, brig J. D. Spreckels, bark Lady Lamson, schr. Olga, schr. Robert Lewis, all for Honolulu; bktn: June 9, schr. Eya, 20 days from Honolulu; June 10, brig J. D. Spreckels, 26 1/2 days from Kahului; June 13, S. S. Australia, 7 days from Honolulu.

LIVERPOOL—May 10, entered out, Br bark Gervan for Honolulu. Rio de Janeiro, May 15, arrived Nor. bark Faust from New York for Honolulu.

BORN.

LUCAS—In Honolulu, June 10th, to the wife of P. M. Lucas, a daughter.

PLATTS—In Honolulu, June 13, to the wife of H. Platts, a daughter.

WINTER—In Honolulu, June 20th, to the wife of J. W. Winter, a daughter.

BOYLE—In Honolulu, June 20th, to the wife of N. Boyle, a son.

MARRIED.

JUDD-ROBERTS—At Kaula, Oahu, June 22, 1890, by the Rev. H. H. Parker, Mary Makalela Roberts, to Charles Hastings Judd.

DIED.

KANOA—In this city, June 20th, of pneumonia, John Konoa, a native of these islands, aged 35 years.

MOANAULI—In Honolulu, June 20th, Miss Esther Moanauli, youngest daughter of the late Hon. John Moanauli, aged 13 years 4 months.

S. S. City of Peking.

The steamship City of Peking, Capt. J. M. Cavarly, arrived at 5:45 o'clock Sunday morning from San Francisco with 19 steerage passengers and 35 bags of mail for Honolulu. Sailed from San Francisco June 14th at 3:37 p.m. First twenty-four hours experienced fresh W. S. W. gale and rough sea, thence to port smooth sea and light winds from west, backing to N. E., and rainy weather. The Peking anchored outside, and left Sunday afternoon for Yokohama and Hongkong with 136 Chinese passengers, 125 men and 11 women, from this port.

How They Stand.

Following is the standing of the four clubs in the Hawaii Baseball League up to June 14th. One game played between the Stars and Kamehamehas is still under protest and of course not counted:

Table with 3 columns: Team, Played, Lost, Won. Rows for Kamehameha, Hawaii, Honolulu, and Stars.

Supreme Court, Hawaiian Islands.

REBECCA P. PUCKU VS. PUCKU KALEKUU.

QUESTION RESERVED BY McCULLY, J., APRIL TERM, 1890.

JUDD, C. J., McCULLY, J., BICKERTON, J., DOLE, J., ASSENT.

QUESTION. Whether proof of non-consent of a party to marriage can in this Kingdom be held a ground for the annulment of marriage.

Held, that the power to annul marriage is based solely on the statute, is limited by it, and that a decree of annulment must state a statute ground, therefore; that hence a decree cannot be granted in the case submitted.

OPINION OF THE COURT BY McCULLY, J.

This matter comes before this Court upon a question reserved by Mr. Justice McCully. He sent it up with a full report of the testimony, and his findings thereon as follows: "In the above recited testimony there is a disagreement only in one particular, the defendant testifying to a cohabitation at some time subsequent to the marriage, the plaintiff denying any cohabitation at any time. I think the latter testimony is consistent with the other proofs of non-cohabitation, and from my view of the witnesses, it is the version which is to receive credit.

The case then stands, that the defendant never gave a consent to the marriage. It is true that she uttered an assent which was forced by the dominant authority of her chief, an assent evidently expressed, or not, before the minister who performed the marriage ceremony, but immediately interpreted and revoked by her escape. Only the clearest proof all around could bring me to this conclusion. I would not consider the mere denial of a young girl unsupported by circumstances and extraneous proof. It is here proved that the defendant never asked her to marry him. The parties have no social acquaintance with each other. I take the circumstance of non-cohabitation without considering whether under our statutes what is termed a consummation of the marriage would be necessary, and the failure of consummation would be a ground of annulment (physical inability not being alleged).

Our statutes prescribe a ceremonial or formal marriage, not necessarily a religious one. They prescribe that a license to marry shall be obtained from an appointed agent, and that the ceremony be performed only by a person having an authorization thereto. These may be termed external provisions for the regulation of the making of marriages, acts required by other persons. As between the parties it is termed the marriage contract, C. L. p. 423. It is not expressed in our statutes that there must be the consent of each party thereto, but in my opinion so much as that is involved in the term contract. The doctrine of law respecting contracts must be applied; there must be a mutual consent, the consent of each party.

But the grounds for an annulment of marriage are distinctly prescribed. It is a statute power given to Justices of the Supreme Court, and the power is limited to what is granted. Any decree of annulment, it appears to me, must be based on one of the specific statute grounds.

I take leave to reserve for the consideration of the Court in Banco the question whether a proof of non-consent can be in this Kingdom held a ground for the annulment of a marriage.

By THE COURT. We believe the question here presented is new in this Court. It may be that the grave doubt whether the Court could go beyond the powers clearly given by statute, has prevented an application for annulment of marriage on the ground of non-consent. It may be, and this seems probable, that no such case has been known where a refusal to give consent, could be so clearly proved as has been in the case before us. We take it to be an absolute fact of the case that this plaintiff never gave the consent of her mind to this marriage.

The statute under which nullity of marriage may be made by the Court is Section 1313 of the Code. It provides that it may be pronounced for either of six enumerated causes existing at the time of the marriage, among which is not the cause, non-consent, upon which this suit is brought. Has the Court power to annul a marriage on any other ground?

In support of the affirmative it is submitted by petitioner's counsel that the language of the statute is permissive in its nature, that there are no words of a restrictive character, such as are found in the statute of divorce, where the language used is, "Divorces from the bond of matrimony shall be granted for the causes hereinafter set forth, and no other." But an enumeration of allowed causes should be construed as an exclusion of others. The statute concerning divorces enacted in 1870 bears the marks of design to be particularly stringent and to check a too great facility in obtaining divorces. It cannot, however, be considered that the use in this of the negative phrase, "and no other," can operate to allow other statutes, not employing equivalent words to be construed more liberally than they would have been otherwise. The general rule of construction, *expressio unius est exclusio alterius* is still operative on them. But without the application of this maxim the result must be the same, when it is considered that the power to decree annul-

ment of marriage is purely a statutory one, and extends only to what is affirmatively given by the statute. There is nothing like a common law authority here, in accordance with which the enumerated causes are expressly allowed, with a remainder of authority upon which the Court may proceed when there are no negative restrictions.

The often quoted sections 14 and 823, are here cited as authority for the Court to go outside of what is expressed in the statutes. The leading case upon these sections is *Kake vs. Horton*, 2 Haw. 209. An action on the case was brought under the generally expressed authority of Section 1116 for the institution of suits for the recovery of damages for injuries direct or consequential. This action would not lie by the common law of England, as the death of a human being could not in a civil action be complained of as an injury. There was nothing in our statute controlling the decision, and the Court held that the common law adopted here, but adopted the rule of the civil law under which such action might be brought.

It is a matter of constant practice in our Courts to cite and adopt the reasonings and principles of law as found in the decisions of the Courts of other countries, and it is necessary to do so, because everything which controls the decision of a case may not be found in any of our statutes. For instance, the question whether a contract is supported by consideration: what elements must exist to sustain an action for malicious prosecution; and in innumerable questions arising in civil actions, must resort be had to what is known as legal authorities and legal reasoning. But we know of no instance in which the Court has ventured to enlarge its statute powers as would here be done by decreeing an annulment upon a ground distinctly different from any enumerated in the law. It can make no difference that the case in which it is desired that the Court shall assume a power is a plain case and of great hardship. We cannot well conceive of a case more urgently requiring a remedy than the one before us, nor of one better supported by a legal principle, namely, that it is of the essence of a contract, and certainly of a marriage contract that there should be the consent of mind of both parties to it, freely and voluntarily and truly expressed when the marriage ceremony is performed. It is the *sine qua non* of this ceremony; the only question being: Does each party take the other to be his or her wife or husband?

But it may be well that no statute provision allows inquiry into the voluntariness and truth of the apparent consent. It is clear that a decree of annulment must set forth the ground thereof. No statute ground could be set forth. The Court would appear to have exceeded its jurisdiction and its decree to be void upon its face.

The case is remitted to the Justice before whom it is pending, with the advice that the decree prayed for cannot be granted on the ground of non-consent.

J. M. Davidson for the petitioner. Honolulu, May 31st, 1890.

Reform Party Convention.

On Saturday evening there was a meeting of the delegates of the nominating Convention of the Reform Party at the old Armory. Mr. Theo. C. Porter presided, and after calling the meeting to order, announced that the object was for the purpose of nominating a candidate for Noble to fill the vacancy for the unexpired term caused by the resignation of Hon. J. A. Cummins. He then called for nominations. The only nominee being Mr. Alex. Young, he was nominated by acclamation.

The chair appointed Messrs. T. J. King, A. Brown and H. M. von Holt a committee to wait upon Mr. Young and inform him of the nomination, after which the meeting adjourned.

Y. M. C. A.

The regular monthly meeting of the Y. M. C. A. was held Thursday evening, President T. R. Walker in the chair. Mr. H. W. Peck made a special report from the committee on temperance. Other committees also reported. The Treasurer was not prepared to report. Three new members were elected. A report was also made in connection with Mr. S. M. Sayford's work.

Copartnership Notice.

NOTICE IS HEREBY GIVEN that the firm of the HAWAIIAN HOTEL STABLES COMPANY, has been reorganized. George W. Macfarlane, E. R. Miles, W. Austin Whiting, trustee, and Theo. S. Kay, have retired from said firm and all interests are now vested in D. Paul E. Isenberg, W. H. Cornwell and S. L. Shaw, who as co-partners under said firm name will carry on the business of Hack, Boarding and Livery Stables and Importers and dealers in live stock.

Hawaiian Hotel Stables Co.

D. PAUL E. ISENBERG, WM. H. CORNWELL, S. L. SHAW.

WAIKAEKA MILL CO.

At the annual meeting of this company held at the offices of Theo. H. Davies & Co., this day the following officers were elected for the ensuing year, viz: President—Theo. H. Davies Vice-President—Alex. Young Treasurer—F. M. Swanzy Secretary—E. W. Holdsworth Auditor—T. R. Keyworth F. M. SWANZY, Secretary (pro tem). Honolulu, June 19, 1890. 1235-31.

Legal Advertisements.

Supreme Court of the Hawaiian Islands.

IN PROBATE. In the matter of the Estate of LUCY ALOHA HARDE deceased, intestate. Before Mr. Justice Dole.

On reading and filing the petition of J. O. Carter, executor and guardian as shown, of Honolulu, Oahu, alleging that Lucy Aloha Harde of said Honolulu, died intestate at Honolulu, on the 20th day of May, A. D. 1887, and praying that Letters of Administration issue to the petitioner.

It is ordered that FRIDAY, the 11th day of July, A. D. 1890, be and hereby is appointed for hearing said petition before the said Justice, in the Court Room of this Court, at Honolulu, at which time and place all persons concerned may appear and show cause, if any they have, why said petition should not be granted. Dated Honolulu, H. I., June 18, A. D. 1890. By the Court: J. H. REIST, Deputy Clerk.

Supreme Court of the Hawaiian Islands.

IN PROBATE. In the matter of the Estate of HENRY WILLIAM AULD, of Honolulu, Oahu. Order appointing time for Probate of Will, and directing publication of notice of the same.

An order was made on the 15th day of July, A. D. 1890, at 10 o'clock, A. M., of said day, at the Court Room of said Court, at Honolulu, in the matter of the Estate of Letters Testamentary to Lillian H. Auld having been filed by A. J. Cartwright.

It is ordered that WEDNESDAY, the 10th day of July, A. D. 1890, at 10 o'clock, A. M., of said day, at the Court Room of said Court, at Honolulu, in the matter of the Estate of Letters Testamentary to Lillian H. Auld, and the same is hereby appointed the time for proving said Will, and hearing said application, when and where any person interested may appear and contest said Will, and the granting of Letters Testamentary. Dated Honolulu, H. I., June 18, 1890. By the Court: J. H. REIST, Deputy Clerk.

Supreme Court of the Hawaiian Islands.

IN PROBATE. In the matter of the Estate of JOHN C. KIRKWOOD, late of Lahaina, Maui, deceased. At Chambers, Before BICKERTON, J.

On reading and filing the petition and accounts of W. O. Smith of Honolulu, Oahu, administrator of the Estate of John C. Kirkwood, late of Lahaina, Maui, deceased, wherein he asks to be allowed \$2000.00, and charges himself with \$19,718.19, and asks that the same may be examined and approved, and that a final order may be made directing the time for proving said Will, and hearing said application, when and where any person interested may appear and contest said Will, and the granting of Letters Testamentary. Dated Honolulu, H. I., June 18, 1890. By the Court: ALFRED W. CARTER, Second Deputy Clerk.

Executors Notice!

THE UNDERSIGNED, THE Executor of the Will of JOHN L. BLAISDELL, deceased, hereby gives notice to all persons having claims against the Estate to present the same with the vouchers, duly authenticated to the said Executors, at his office in Honolulu, within six months from the date hereof, or they will be forever barred. Persons owning said estate, or having property or effects belonging thereto, will please pay the same or make return thereof at said office at once.

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Co-Partnership Notice.

MR. ED. MULLER HAS RETIRED as a partner from our firm. H. HACKFELD & CO. Honolulu, May 31, 1890. 130-41 1325-51

Machinery For Sale!

The following machinery forming part of the Star Mill Plant will be sold at public auction at an early date unless disposed of previously by private sale. Parties desirous of purchasing any portion of this machinery can get particulars and prices from the undersigned:

1 26x48 Mill & Gearing,

Spare Gear Wheel & Pinion; 1526 Engine, Spare Gear Wheel & Pinion; 5 McAlister Classifiers with Pittings, 4 complete; 1 Juice Heater, 14 feet long, 12 in. diameter; 2 1/2 in. I. Cleaning Fans, 6x12x27; 6 1/2 Duffie Engine, complete with Pump & Stage;

1-6x20 Galloway Boiler complete

1 6x16 Tubular Boiler, complete; 1 Sugar Car 1/4 in. W. L., 4x3, 4x3; 1 8 gal. Cooler, 6x5x20; 1 Sugar Cooler, 6x5x20; 1 Sugar Cooler, 6x5x20; 1 2 1/2 in. W. L., 7x20x12; 1 Steam Pump, 4 discharge;

1 No. 5 Blake Feed Pump

2 Blake Pumps, 1 1/2 discharge; 1 Lathe, 30 inch 12 foot long, bed; 1 Heavy Vice; 1 Fairbanks Platform Scales, 20x25;

Executors Notice.

THE UNDERSIGNED HAVING BEEN duly appointed Executor of the Will and Estate of Charles H. Judd of Kaula, Oahu, deceased, hereby gives notice to all persons having claims against said estate, whether secured by mortgage or otherwise, to present their claims duly authenticated, to Mr. F. M. Swanzy, at the office of Messrs. T. H. Davies & Co., at Honolulu, within six months from the date of this notice or they will be forever barred. A. FRANCIS JUDD, Executor of the will and Estate of Charles H. Judd, deceased. Dated at Honolulu, May 30, 1890. 1325 1229-41

UNION FEED CO.,

—DEALERS IN— HAY AND GRAIN

Queen and Edinburgh Sts. Telephone 175. Island orders solicited. (1894 3m)

Hilo Soda Works Co., Limited.

NOTICE IS HEREBY GIVEN that at a meeting of the Shareholders of the above named Company, held in Hilo, Hawaii, Hawaiian Islands, on June 24, 1890, it was voted to accept the Charter of Incorporation granted by the Hawaiian Government. NOTICE is further given that the limit of the Shareholders limited to the amount due and unpaid on the shares. The following officers were elected for the ensuing year, viz: JONA TUCKER, President. E. W. RICHARDS, Vice-President. R. C. AUSTIN, Secretary. R. A. WADSWORTH, Treasurer. The above named officers also constitute a Board of Directors. H. C. AUSTIN, Secretary. Hilo, June 7th, 1890. 1327-41